

## **REQUEST FOR RECONSIDERATION**

Reconsideration of the present application is respectfully requested.

Claims 2, 4-5 and 7-8 are pending in the application.

The Examiner rejected Claims 4 and 7 under 35 U.S.C. §103(a) as being unpatentable over *Masami* (JP404260256A) in view of U.S. Patent No. 6,560,466 to *Skorko* and further in view of *Yoshiyuki* (JP362136951A). The Examiner rejected Claims 5 and 8 under 35 U.S.C. §103(a) as being unpatentable over *Ikuo* (JP08-307488) (cited by the Examiner as “JP06-307488, which we believe was a typo) in view of *Masami* and *Yoshiyuki*. The Examiner rejected Claim 2 under 35 U.S.C. §103(a) as being unpatentable over *Masami* in view of *Kim* (DE019645751A1) and *Skorko* and *Yoshiyuki*.

Regarding the §103(a) rejection of Claims 4 and 7, Applicants respectfully traverse. Claims 4 and 7 of the present invention relate respectively to a method and apparatus of generating an alert sound in a normal level, if the human body is not detected adjacent to the receiver, generating the alert sound in a low level lower than the normal level, if the human body is detected adjacent to the receiver, and adjusting the level of the alert sound to the normal level after a certain time period, when an incoming call is received in a portable telephone having a proximity sensor.

*Masami*, the primary reference in the rejection, relates to a telephone system, and discloses an operation of reducing a tone volume informing occurrence of an incoming call if a user is adjacent to a portable telephone when the incoming call arrives, and increasing the tone volume informing occurrence of the incoming call if the user is not adjacent to the portable telephone when an incoming call is received.

*Skorko*, a secondary reference in the rejection, relates to an auditory feedback control through user detection, and discloses an operation of lowering the ring volume when a user

comes into close proximity of the handset in a wireless communication handset with a sensor and a detection circuitry.

*Yoshiyuki*, a secondary reference in the rejection, relates to a ringer tone variable telephone set, and discloses an operation of increasing the tone volume of the ringer gradually after a certain time period after the incoming call arrives to the telephone.

The Examiner concedes that *Masami* fails to teach adjusting alert sound in a portable telephone depending upon user proximity, and adjusting the level of alert sound to a normal level after a certain time period. It is respectfully asserted that the operations of generating the alert sound in a low level lower than the normal level and adjusting the level of the alert sound to the normal level after a certain time period in Claims 4 and 7 are distinct from the operation of gradually increasing the volume level from a certain ring volume generating the incoming call, as taught in *Yoshiyuki*, and that the combination of *Masami*, *Skorko* and *Yoshiyuki* fails to teach or even fairly suggest these operations in Claims 4 and 7. Accordingly, it is respectfully submitted that the rejection of Claims 4 and 7 is incorrect, and should be withdrawn. Withdrawal of the same is respectfully requested.

Regarding the §103(a) rejection of Claims 5 and 8, Applicants respectfully traverse. Claims 5 and 8 relate respectively to a method and apparatus of generating the alert sound in a normal level, if the cover is closed or the human body is not detected adjacent to the receiver when an incoming call is received in a flip or folder-type portable telephone having a cover hatch sensor for detecting whether the cover is open or shut and a proximity sensor, generating the alert sound in a low level lower than the normal level, if the cover is open or the human body is detected adjacent to the receiver, and adjusting the level of the alert sound to the normal level after a certain time period.

*Ikuo*, the primary reference in the rejection, relates to a portable telephone set with an automatically adjusting function for an incoming tone, and discloses an operation of stopping the incoming tone or reducing its volume at the time of incoming when the folder of the portable

telephone is open. *Ikuo* appears to teach reducing the volume of the incoming tone when the folder of the portable telephone is open, while *Masami*, a secondary reference in this rejection, teaches reducing a tone volume informing that an incoming call arrives if a user is adjacent to a portable telephone when the incoming call comes, and increasing the tone volume informing that the incoming call arrives if the user is not adjacent to the portable telephone when an incoming call is received.

However, since *Ikuo* relates to the portable telephone detecting whether the folder is open to reduce the volume corresponding to the incoming call, and *Masami* relates to a conventional telephone reducing the tone volume informing the incoming call if the user is adjacent to the telephone having a sensor, Applicants respectfully submit that there is a lack of motivation to combine the portable telephone of *Ikuo* with the conventional telephone of *Masami*.

Moreover, Claims 5 and 8 recite, *inter alia*, detecting that the human body is adjacent to the receiver and generating the alert sound in a lower level lower than the normal level, and adjusting the level of the alert sound to the normal level after a certain time period. It is respectfully asserted that the operations of generating the alert sound in a low level lower than the normal level and adjusting the level of the alert sound to the normal level after a certain time period in Claims 5 and 8 are distinct from the operation of gradually increasing the volume level from a certain ring volume generating the incoming call, as taught in *Yoshiyuki*, and that the combination of *Ikuo*, *Masami* and *Yoshiyuki* fails to teach or even fairly suggest these operations in Claims 5 and 8. Accordingly, it is respectfully submitted that the rejection of Claims 5 and 8 is incorrect, and should be withdrawn. Withdrawal of the same is respectfully requested.

Regarding the §103(a) rejection of Claim 2, Applicants respectfully traverse. Claim 2 recites, *inter alia*, determining whether a user is adjacent to the portable telephone when an incoming call is received, determining whether an alert sound adjusting mode is set or not when the user is adjacent to the portable telephone, generating the alert sound to the first level when the alert sound adjusting mode is not set, generating the alert sound to the lower level lower than

the first level when the alert sound adjusting mode is set, and adjusting the alert sound to the first level after certain time period. It is respectfully asserted that *Masami*, the primary reference in this rejection, has at least the same deficiencies that Applicants asserted above in reference to the rejections involving Claims 4, 5, 7 and 8.

*Kim*, a secondary reference in this rejection, relates to a method for operating night call volume in a telephone, and discloses an operation of registering a volume output at night and a time when a volume setting mode adapted to a night call is input from the user in the telephone, and outputting the sound signal as the registered volume when the incoming call is received at night.

While Claim 2 relates to determining whether an alert sound adjusting mode informing is set or not when the user is adjacent to the portable telephone when an incoming call is received, and generating the alert sound to the first level or the lower level lower than the first level, *Kim* in contrast discloses outputting the incoming call as the registered ring volume only for the incoming call generated in the registered time. Accordingly, the operation of generating the alert sound to the first level or the lower level lower than the first level at the time of incoming when the user is adjacent to the portable telephone in Claim 2 is distinct from the operation of outputting the incoming call as the registered ring volume only for the incoming call generated in the registered time in *Kim*.

Moreover, Claim 2 recites, *inter alia*, determining whether a user is proximate a telephone, generating the alert sound in a first level, generating the alert sound in a lower level lower than the normal level, and adjusting the level of the alert sound to the first level after a certain time period. It is respectfully asserted that the operations of generating the alert sound in a low level lower than the normal level and adjusting the level of the alert sound to the first level after a certain time period in Claims 5 and 8 are distinct from the operation of gradually increasing the volume level from a certain ring volume generating the incoming call, as taught in *Yoshiyuki*, and that the combination of *Masami*, *Kim*, *Skorko* and *Yoshiyuki* fails to teach or even fairly suggest these operations in Claim 2. Accordingly, it is respectfully submitted that the

rejection of Claim 2 is incorrect, and should be withdrawn. Withdrawal of the same is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 2, 4, 5, 7 and 8, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Farrell", is written over the printed name.

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